

EXHIBIT 17

Deposition of Robert Moody

Pages: 39, 44, 45, 46, 50, 55, 56, 57, 64, 65, 87, 88, 90

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Dated: December 23, 2020

1 A. We had suicide watch, we had constant
2 watch. Suicide watch you have an inmate
3 outside the door, constant watch would be an
4 officer, and regular watch was an inmate
5 walking around at 15 minute intervals.

6 Q. Any others that you can recall?

7 A. There is contraband watch, but that is
8 usually they think somebody has something in
9 their person.

10 Q. So is that where you are watching for
11 bowel movements?

12 A. Yes.

13 Q. That is a different situation, right?

14 A. Yes.

15 Q. Let's do this. You mentioned regular
16 watch. Have you ever heard that referred to as
17 a level 3 watch?

18 A. Yes.

19 Q. Before I ask you more specifics with
20 that, I think you mentioned a little while ago
21 that levels of watch have changed over time, I
22 did hear you correctly?

23 A. Yes.

24 Q. Is there anything specific you can tell

1 Q. I am going to show you another
2 document, sir, this is going to be Exhibit P-6.
3 Do you see a document labeled P-6 there, sir?

4 A. Yes.

5 Q. I am going to go to page 2. At the
6 bottom of page 2 there is some highlighted text
7 next to the number 4 where my cursor is. Let
8 me just ask you to read to yourself from level
9 3 down here to the bottom, tell me when you are
10 finished and then I will ask you some follow-up
11 questions.

12 A. I am done.

13 Q. Let's describe here -- first I should
14 have clarified. Have you seen this policy
15 before, which is labeled watch and observation
16 officer?

17 A. Yes.

18 Q. Is what you just read about level 3, is
19 that consistent with your understanding of the
20 level 3 precautions that were in place, or the
21 manner in which the level 3 precautions were
22 applied in August of 2018?

23 A. Yes.

24 Q. To be clear, that meant that an inmate

1 monitor would observe the person's activities
2 every 15 minutes; is that correct?

3 A. Yes, they are suppose to, yes.

4 Q. You as an officer would be responsible
5 for observing, you or a fellow officer, would
6 observe inmates on this level of watch in a
7 period not to exceed 30 minutes; is that
8 correct?

9 A. Yes, to the best of your ability.

10 Q. At any given time, let's use the Bravo
11 module as an example, how many people tend to
12 be on the level 3 watch? And before you answer
13 that let me just say, is there an average
14 number or does it vary day by day?

15 A. It varies day by day, it varies by
16 block. Bravo typically wouldn't have too many
17 people on watch.

18 Q. What is the most there would be?

19 A. I guess you could have everybody on
20 watch, but on Bravo alone probably, you know,
21 10 maybe at the most.

22 Q. So why is it that the Bravo module
23 would not, is there anything specific about it?

24 A. It is a general population block, it is

1 not an overly active block as far as mental
2 health issues and stuff like that.

3 Q. Which blocks, if any, tend to have the
4 greater population of people with mental health
5 issues?

6 A. E, G, M, H, U, R, H, U, Foxtrot maybe.

7 Q. What are E, G and F, what is specific
8 about them?

9 A. Echo is E, that is usually a protective
10 custody block, charges, you know, like along
11 those lines.

12 Q. Got it.

13 A. Golf is more of an older population you
14 want to say or medical issues, again protective
15 custody as well. And Foxtrot is the older
16 block for women, so.

17 Q. You mentioned the mental health unit;
18 is that right?

19 A. Yeah, that is an eight man unit,
20 usually more severe mental health issues.

21 Q. Mr. Matella mentioned to us yesterday,
22 he is a former case manager supervisor, his
23 phrase SMPI.

24 A. Yeah that would be something with him,

1 the phrase --

2 A. Inmate monitor, I am sorry.

3 Q. Sir, I've handled cases against Bucks
4 County years ago, Mr. Ninosky and I had a case
5 together where that phrase was used. In fact,
6 while we are on that topic, do you know when
7 the phrase baby-sitter was formalized as inmate
8 monitor?

9 A. I do not. Everybody called it the
10 baby-sitter since I started, it is obviously
11 the slang, but.

12 Q. Bottom line, sir, in your job as a
13 correctional officer following through on your
14 duties to protect the prisoners in your custody
15 you have a responsibility to make sure that all
16 the provisions of the level 3 watch are carried
17 out; is that correct?

18 A. Yes, to the best of my ability.

19 Q. Would you agree that you have a
20 responsibility to ensure that the inmate
21 monitors do their job?

22 A. Again, to the best of my ability, yes.

23 (Whereupon watch and observation
24 procedures was premarked for identification as

1 A. No, no.

2 Q. I want to talk to you specifically
3 about Mr. Freitag. He obviously was found in
4 his cell shortly before 11:00 a.m. on the
5 morning of August 25th. Have you ever seen him
6 before that morning?

7 A. No, not to my knowledge.

8 Q. Do you remember any encounters with him
9 either on Bravo module or any other module?

10 A. Not at all, no.

11 Q. Just as background for my question I
12 will note that Mr. Freitag had been in custody
13 since, my recollection is June 4th or 5th of
14 2018. It would have been nearly a three month
15 period. I take it you don't remember any
16 encounters with him in that three month period;
17 is that right?

18 A. No, not at all.

19 Q. Have you heard about his criminal case
20 at all?

21 A. Not until after everything.

22 Q. I will note that it sounds like you had
23 some familiarity with what he was charged and
24 convicted for?

1 A. After August 25th.

2 Q. What do you remember hearing?

3 A. That he had drove a car through his
4 estranged wife, ex-wife, through the house,
5 through the door, something like that.

6 Q. Who did you hear that from?

7 A. Newspaper articles.

8 Q. So --

9 A. I didn't go look through any legal
10 documents or anything like that, no.

11 Q. So you saw newspaper articles about his
12 suicide, which then reported about the
13 background of the case; is that right?

14 A. Yes.

15 Q. How many newspaper articles do you
16 remember seeing?

17 A. A few, Levittown Now, Courier Times.

18 Q. When you saw those articles did you
19 speak to anybody about them, send them by email
20 or text anybody?

21 A. No. We spoke at work about it after it
22 happened, you know, people asked if we are all
23 right, what is going on, stuff like that.

24 Q. So similar question, let me ask it this

1 way. I assume you had -- on the morning of
2 August 25th you had no knowledge of Mr. Freitag
3 having been on suicide watch on any previous
4 occasions; is that correct?

5 A. Not that I know of, no.

6 Q. Did you have any awareness of his two
7 prior suicide attempts?

8 A. Not until after that date.

9 Q. You learned that through the articles
10 that you saw in the news?

11 A. Yes.

12 Q. Did you have any awareness of him being
13 on level 3 status in early August of 2018?

14 A. Before August 25th?

15 Q. Yes.

16 A. No.

17 Q. Did you have any awareness of him being
18 nervous or expressing nerves or anxiety about
19 his sentence?

20 A. Not at all, no.

21 Q. Do you remember whether you were
22 working on August 24th when Mr. --

23 A. I was not, no.

24 Q. To complete my question, the day of Mr.

1 A. No.

2 Q. Let's talk about what happened when you
3 located -- strike that -- when Mr. Freitag was
4 found in his cell. What was it that called
5 your attention to Mr. Freitag's cell?

6 A. Another inmate was going up the stairs
7 adjacent to his cell and said, you know,
8 something along the lines that this guy is
9 covered in blood or there is a lot of blood.

10 Q. I take it you hadn't looked inside the
11 cell any time in the minutes before then?

12 A. I just come back from break, roughly a
13 little bit before that.

14 Q. Do you remember the exact words that
15 that inmate used?

16 A. He is covered in blood, I don't know
17 the exact wording.

18 Q. You were just looking down, were you
19 looking down at your memo?

20 A. Yes.

21 Q. We can look at it later, but let me
22 pull it up to make sure we are on the same
23 page. The memo that I have is marked as
24 Exhibit P-15.

1 (Whereupon memorandum dated August
2 25, 2018 was premarked for identification as
3 P-15.)

4 BY MR. FEINBERG:

5 Q. Do you have that in front you now?

6 A. Yes, sir.

7 Q. This Exhibit P-15 is the same memo that
8 you prepared that day, August 25th; is that
9 right?

10 A. Yes, sir.

11 Q. The memo, the documents I have seen
12 show that it was a Mr. Monachelli who was the
13 one who observed Mr. Freitag in his cell, does
14 that sound right to you?

15 A. Yes.

16 Q. Once that gentleman said this guy is
17 covered in blood what did you do?

18 A. I went over to the cell, I opened the
19 door, I yelled in, he was not responsive. I
20 told Officer Young to call 911 emergency, and
21 he called over the phone. They announced it
22 via loud speaker, and other inmates were trying
23 to look in. I was trying to keep them away
24 from the door.

1 A. Yes.

2 Q. So 58 minutes in from 8:13 can we agree
3 that Mr. Freitag appears to be out of his cell
4 at 9:11 a.m.?

5 MR. KOLANSKY: Sorry, where do you
6 see the then current time? I see 8:13 but I
7 don't see the 9:11.

8 MR. FEINBERG: We are 58 minutes
9 into the video so adding --

10 MR. KOLANSKY: Okay, down at the
11 bottom I understand. Go ahead, I just didn't
12 see that, thank you.

13 MR. FEINBERG: Sure.

14 BY MR. FEINBERG:

15 Q. Mr. Moody, do you understand the math
16 that I have done?

17 A. Yes.

18 Q. 58 minutes forward from 8:13 takes to
19 9:11 a.m.; is that right?

20 A. Yes.

21 Q. Give or take. Based on other documents
22 that I have seen here, Mr. Freitag is waiting
23 in line for delivery of his medications; is
24 that right?

1 A. It appears to be that way, yes.

2 Q. Now, my cursor, there are two men at
3 the front of the line where my cursor is, both
4 appear to be in uniform, one appears to be
5 white, one appears to be black. Do you know
6 who those people are?

7 A. I am the one on the left. It appears
8 to be me, I think it is me.

9 Q. The person who is to your left, our
10 right on the screen, who appears to be a black
11 male, do you know who that is?

12 A. No.

13 Q. I am going to continue playing. I am
14 going to play it on fast motion here just to
15 get confirmation that Mr. Freitag appears to be
16 in line all the way through the end of this
17 video. The video has ended, an hour on from
18 8:13, that takes us to 9:13, would you agree?

19 A. Yes.

20 Q. I am going to stop that video. Open up
21 the next one, which for counsel's benefit is
22 labelled under Jeff's firm's Bates stamping
23 441. I will open it, and then I will share it
24 with everybody. As I am sharing it I will

1 seconds. Just ask you to keep your eyes on Mr.
2 Freitag. All right. At two minutes and 20
3 seconds, would you agree that Mr. Freitag
4 appears to have entered his cell.

5 A. Yes.

6 Q. So would you agree that based on the
7 time stamps on the video it was sometime after
8 9:15 a.m. when Mr. Freitag has entered his
9 cell?

10 A. Yes.

11 Q. Do you remember seeing on the inmate
12 monitor form that the inmate monitor, Mr.
13 Caldwell, indicated that Mr. Freitag was in his
14 cell and sleeping at 9:15 a.m.?

15 A. The one you showed me?

16 Q. Yes.

17 A. Yes.

18 Q. Would you agree that appears to be
19 inaccurate based on what you are seeing on
20 video?

21 A. Yes.

22 MR. KOLANSKY: Objection.

23 BY MR. FEINBERG:

24 Q. Do you know, Mr. Moody -- first of all,